

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FILED

JUL 14 2008

CLERK, U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

Civil Action No. 05-781

Frederick Banks,

Plaintiff,

County of Allegheny et al.,)

)

NOTICE OF APPEAL; AND MOTION FOR

RECONSIDERATION (Motion under Juv. 27, 48)

Plaintiff Frederick Banks ("Banks") hereby notifies the Court and the parties that he appeals from the order entered on or about June 27, 2008 to the United States Court of Appeals for the Third Circuit.

Banks also moves this Court for reconsideration as the Court clearly erred and granting the motion would prevent a manifest injustice. The Court clearly erred Banks stated that the Supreme Court of Pennsylvania, a State Court upheld an award of 1.8 million for two inmates just exposed to Staff and staff in 2004-2005. This Banks clearly stated a claim under state law and federal law. There is nothing in the record to show that Anna Phillips had any medical professional license when Banks was treated in 2004-2005. The Court cites to a license in 2008. The Court cites to the COC website that the magistrate Judge did not mention in her report and recommendation; Banks a parole inmate does not have access to the website or the internet. When the Court cited to a matter of public record outside the record of this case it violated Banks' due process and therefore the judgment is void. Plaintiff moves under Fed.R.Civ.Proc. 60(b) and 59(e) for the Court to vacate and/or alter and amend the judgment. There is nothing in the record to indicate that medical Staff proposed that "the benefits of the treatment with the drug outweighed the costs of the potential allergic reaction." Therefore on the current record Defendants' activity is much more than just negligence; it is a violation of the Eighth Amendment. Since the Banks v. Hull report merely based its decision on a Strict liability aka "Respondeat Superior" and Banks did not raise a Strict liability claim in the instant case it is improper to dismiss the suit against the County Defendants on this basis and a violation of Plaintiff's

the Process thereby rendering the judgment void. Lastly, the Court failed to offer any valid reason for refusing to exercise supplemental jurisdiction over the state law claims, and failed to certify or rather offer reasons for certifying why any appeal from this order would not be taken in good faith. More violations of the Process.
WHEREFORE, the Plaintiff, Frederick Banks respectfully requests that the foregoing motion be granted.

Respectfully Submitted,

21st

AND NOW, THIS
July 08 DAY OF
IT IS HEREBY
ORDERED THAT THE WITHIN
MOTION IS DENIED.

G.L. Lancaster
GARY L. LANCASTER,
UNITED STATES DISTRICT JUDGE

Frederick Banks

05711-068, 1A
Po Box 5000

Yazoo City, MS 39194

PLAINTIFF

Certificate of Service:

I hereby certify that on this 7th day of July 2008 I sent a true and correct copy of the foregoing by mail delivery upon the following:

Clerk, US Dist Court
Po Box 1805
Pittsburgh, PA 15230

cc: All Counsel of Record

Frederick Banks